

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,

Petitioner, **FILED**

v.

MICHAEL VOLZ,

Respondent.

CASE NO.:

**1:22 MC 0059**

JUDGE:

**JUDGE NUGENT**

DEC 13 2022

CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
CLEVELAND

PETITION TO ENFORCE INTERNAL  
REVENUE SERVICE SUMMONS

The United States of America, on behalf of its agency, the Internal Revenue Service (“IRS”), states as follows:

1. This is a proceeding brought pursuant to the Internal Revenue Code of 1986, 26 U.S.C. §§ 7402(b) and 7604(a), to judicially enforce an IRS summons.
2. Scott Iasillo is a duly commissioned Revenue Agent, an authorized delegate of the Secretary of the Treasury and of the Commissioner of Internal Revenue. As a Revenue Agent, Iasillo is authorized to issue an IRS summons pursuant to the authority vested in him under 26 U.S.C. § 7602 and Treasury Regulation § 301.7602-1, 26 C.F.R. § 301.7602-1.
3. Respondent Michael Volz is an officer and custodian of documents of Cole Distributing, Inc., which is located at 6312 State Route 598, Shelby, OH 44875, which is within the jurisdiction of this Court.
4. Revenue Agent Iasillo is conducting an investigation into the qualification of Cole Distributing, Inc.’s 401(k) Plan as a qualified retirement plan under Section 401(a) of the Internal Revenue Service for the plan year ending May 31, 2019. (Declaration of Revenue Agent Scott Iasillo (“Iasillo Declaration”) at ¶ 2, attached hereto as Exhibit 1.)

5. Respondent is in possession and control of testimony, books, records, papers, and other data that are relevant to the above-described investigation.

6. On March 9, 2022, Revenue Agent Iasillo issued an IRS summons directing Respondent, as custodian of records and officer of Cole Distributing, Inc., to appear before him on April 18, 2022, and provide testimony and produce for examination books, papers, records, or other data as described in the summons. A true and accurate copy of the summons issued to Respondent is attached hereto as Exhibit 2.

7. On March 9, 2022, Revenue Agent Iasillo served Respondent with an attested copy of the summons by personal delivery. (Iasillo Declaration at ¶ 4, Ex. 1; Summons at p. 2, Ex. 2.)

8. On April 18, 2022, Respondent did not appear. Respondent's refusal to fully comply with the summons continues to date. (Iasillo Declaration at ¶ 5, Ex. 1.)

9. The books, papers, records, or other data sought by the summons are not already in the possession of the IRS. (Iasillo Declaration at ¶ 6, Ex. 1.)

10. All administrative steps required by the Internal Revenue Code for the issuance of a summons have been taken. (Iasillo Declaration at ¶ 7, Ex. 1.)

11. It is necessary to obtain the testimony and to examine the books, papers, records, or other data sought by the summons in order to ascertain the qualification of Cole Distributing, Inc.'s 401(k) Plan as a qualified retirement plan under Section 401(a) of the Internal Revenue Service for the plan year ending May 31, 2019. (Iasillo Declaration at ¶ 9, Ex. 1.)

WHEREFORE, the United States of America respectfully requests that:

1. The Court issue an order directing Respondent to show cause, if any, why Respondent should not comply with and obey the aforementioned summons and each and every requirement thereof. A proposed Order to Show Cause is attached hereto as Exhibit 3.<sup>1</sup>

2. The Court enter an order directing Respondent to obey the aforementioned summons and each and every requirement thereof by ordering the attendance, testimony, and production of the books, papers, records, or other data as is required and called for by the terms of the summons, before Revenue Agent Iasillo or any other proper officer, agent, or employee of the IRS, at such time and place as may be fixed by Revenue Agent Iasillo or any other officer, agent, or employee of the IRS.

3. The United States recover its costs in maintaining this action.

4. The Court grant such other relief as is just and proper.

Respectfully submitted,

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Northern District of Ohio

By:

  
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<sup>1</sup> If the Court adopts the proposed Order, the United States requests that the hearing be scheduled at least forty-five days after the issuance of the Order, in order to allow sufficient time for service to be effectuated in accordance with the proposed Order.